THE TRAVANCORE REVENUE SUMMONS REGULATION AMENDMENT BILL.

MR. PUTHUPALLY S. KRISHNA PILLAI: Sir, I beg to introduce the bill to amend the Travancore Revenue Summons Regulation. The object of this amendment is explained in the statement of objects and reasons. But I may be permitted to state only one word in support of this Bill. Sir, there appears to be an omission in the Regulation as it stands at present. It does not contain any provision directing as to how a process has to be served if a person refuses to accept summons, or the adult member of the family in the absence of the person refuses to accept a process. If a person evades the service of a process no provision is made so as to give legal sanctity for affixture and return. The absence of such a provision in the Regulation has been the cause of very many administrative difficulties. The Dewan Peishkars and the Land Revenue Commissioner have complained that owing to the absence of such a provision in the Regulation various difficulties are experienced. In order to regularise the existing practice in the matter of serving processes the present proposal is made. The revenue process servers now serve the process on such occasions by throwing the summons in front of him and recording മുമ്പിൽ ഇട്ടു കടന്നു but there is no legal sanction attaching to this kind of service. Hence the amendment. I beg to move that the bill be read in the Assembly.

MR. KOTTALIL P. ABRAHAM: Has the Legal Remembrancer any objection in deleting this provision and in bringing it in line with the corresponding provision in the Civil Procedure Code?

MR. PUTHUPALLY S. KRISHNA PILLAI: The provision contained in the Civil Procedure Code as it stands is very cumbersome and elaborate. But here what is needed is a provision for service if the person to whom the summons is sent refuses to accept it so that such service may be a due service. There is a provision even now for the service of summons on persons who cannot be found. But there is no provision where a person is found but refuses to accept a summons. But according to the Civil Procedure Code if a person refuses to accept summons the service is legalised by the provision for a certificate that it has been so done.

MR. K P. KOCHUKORATHARAKAN: കക്ഷിക്കു സമൻസ് ഒപ്പിടാൻ മനസ്സില്ലാ എന്നു പറയുന്നു എന്നു രണ്ടു സാക്ഷിയും വെച്ചു സമൻസു മടങ്ങുമോ?

MR. PUTHUPALLI S KRISHNA PILLAI: Now the Revenue Summons Regulation does not contain any provision as to what ought to be done if a person refuses to accept the summons. If a process peon says that it has not been accepted there is no legal sanctity attaching to such a report. When the law was framed the necessity for this contingency was not contemplated. But times have changed.

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MR. K. P. KOCHUKORATHARAKAN: അഞ്ചൽവഴി അയച്ചുകൊടുക്കുകയല്ലേ.

MR. PUTHUPALLI S. KRISHNA PILLAI: It is a personal service that ought to be resorted to. It is a service through a responsible officer of the Revenue Department and that service ought to be effected. In case a person cannot be found it may be possible to send it through Anchal. But if I take a summons to Mr. Abraham and if he refuses to accept it what should I do? I must make a written statement that Mr. Abraham has refused to accept. All officers who are entrusted with this work are presumed to be honest and truthful. If they make false statements they are punishable under law. If the summons is taken to Mr. Abraham and if he is absent and the process peon can make a report that he has affixed the summons on the door of Mr. Abraham's house, the service will have the legal sanctity because there is express provision. The attempt is to give legal authority to do that which is now done and to legalise the only course that can be adopted.

MR. K. P. KOCHUKORATHARAKAN: ഏഴുരൂപാ ശമ്പളക്കാരായ ഇവർക്ക് നോട്ടീസുചെയ്തുകൊണ്ടുപോകാൻ സാധിക്കുകയില്ലേ?

MR. PUTHUPALLI S. KRISHNA PILLAI: There is a presumption in favour of the regularity of official proceedings. This service is effected under a statute. Any infraction of the statutory provision is met with punishment. There may be dishonest Process servers but it is not peculiar to the Revenue Department.

MR. K. P. KOCHUKORATHARAKAN: കറഞ്ഞ ശമ്പളക്കാരായ ഇവർ നീര സമ്പന്നവരുടെ പേരിൽ വെറുതെയും റിപ്പോർട്ടു ചെയ്യുന്നതിന് ഇടയാക്കുകയില്ലേ?

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, there does not appear to be much force in this question. Why should the Proverthikar make a false report when an easier course is open to him. He can report that the person was not found when enquired about and that he tried to get at him on such and such dates but failed and so the summons had been affixed to his house. The summons is then duly served, When that course is available why should he state falsely that when it was taken to him he refused to accept. The amendment does not therefore worsen the present position.

MR. M. SIVATHANU PILLAI: May I know how this omission was found to be defective in appeal cases?

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, the Revenue Summons Regulation has nothing to do with appeal cases. In appeal cases if a person refuses to accept summons he is penalised by deciding the case against him. Under this Regulation no such thing is contemplated.

MR. M. SIVATHANU PILLAI: Cannot the peons who serve summons in appeal cases affix the summons to the door if the person refuses to accept summons?

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MR. PUTHUPALLI S. KRISHNA PILLAI: That is exactly what is wanted here.

MR. M. SIVATHANU PILLAI: It is not a minor detail that can be left over?

MR. PUTHUPALLI S KRISHNA PILLAI: When there is not a statutory provision for that purpose there is difficulty in enforcing attendance of witnesses. In order that the report can be accepted and acted upon a definite provision should be made in the Regulation for that purpose.

PRESIDENT: The provision is all the more necessary when the refusal is definite.

MR. PUTHUPALLI S. KRISHNA PILLAI: Yes, Sir.

MR. S. CHATTANATHA KARAYALAR: Has any difficulty been felt on account of the absence of such a provision?

MR. PUTHUPALLI S. KRISHNA PILLAI: Yes. Various difficulties have been felt.

MR. C. V. CHANDRASEKHARAN: I second the motion.

MR. E. SUBRAMONIA AIYAR: This is only by way of superabundant caution. So far as the old Regulation went, it was enacted that if the person could not be found the affixture must be made by the process server. If the process server meets the person who is to be summoned and if he does not accept, the affixture is not going to improve matters. The affixture was introduced because if the person is living there, certainly he could not at a later stage come and say that he had not known of it. Otherwise, it would be open to him to contend that the summons was not taken to him at all. The process sever will swear that it was taken. The affixture is a secondary method. In the matter of service of summons, as far as possible, the endeavour is to see that no order is passed prejudicing the man without giving him an opportunity to be heard. So, if he accepts the summons well and good, but in the case of those who do not accept, the Legislature at that time, thought that the process might be affixed. Then some time or other he would come to know of it. There is no magic in personal service. The idea is that the person against whom some procedure is taken must be given previous intimation of it. In whatever form it is given, it is immaterial. If personal service cannot be had, adopt a method which will bring notice to him; and so the notice is affixed. But in the case of refusal it might be that even the affixture is unnecessary. The report of the server is enough. The man, if he pleads that he did not refuse, at any rate, there was the other method of service.

I do not think there is any matter of principle in this. It is only adding a further provision to say that so far as possible even revenue proceedings might be taken without giving sufficient opportunity, to the person affected, for appearing. This only makes it difficult for him to say later on that he had no notice of this proceedings. It does not bring any inconvenience. It will throw some additional work on the process server. That is all.

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MR. K. P. KOCHUKORATHARAKAN : ഈ സെക്ഷനിൽ എന്തുമാറ്റമാണു വരുത്താനുള്ളതു് എന്നു് ഒരു സിലക്ട് കമ്മിറ്റിക്കു അയച്ചു തീരുമാനം വരുത്തുകയാണു് ചെയ്യേണ്ടതു്. അങ്ങിനെ ചെയ്തില്ലെങ്കിൽ എത്ര ഗ്രാമസ്ഥനായാലും ഈ ഏഴരുപാ ശമ്പളക്കാരന്റെ റിപ്പോർട്ടു കൊണ്ടു പിഴ ഒടുക്കാതിരിക്കാൻ സാധിക്കുന്നതല്ല. പുറമ്പോക്കു കേസുകളോ മറ്റോ ഉണ്ടെങ്കിൽ കക്ഷിയെ നോട്ടീസ് കാണിക്കാതെ നോട്ടീസിന്റെ നാലു മൂലയും കീറിക്കളഞ്ഞു റിപ്പോർട്ടു ചെയ്താൽ പിഴ വന്നതിനുമേൽ മാത്രമെ കക്ഷിസംഗതി മനസിലാക്കുകയുള്ളൂ. അങ്ങനെ പല കേസുകളും എനിക്കറിയാം. അതുകൊണ്ടു് ഇങ്ങിനെയൊരു അമൻറുമെൻറു വരുത്താൻ പാടുള്ളതല്ല. ഒരു സിലക്ട് കമ്മിറ്റിക്ക് അയച്ചു വേണ്ട തീരുമാനം വരുത്തുകയാണു വേണ്ടതു്.

PRESIDENT: The motion before the House is that the Bill be read in the Assembly.

The motion was put to vote and carried.

TITLE OF THE BILL.

The Secretary then read the title of the Bill as "The Travancore Revenue Summons Regulation Amendment Bill."

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I thought it was a Bill which would not provoke any kind of opposition or criticism from any honourable member of this House. Therefore, I originally thought I need not refer this Bill to any Select Committee. I think I shall have to refer it to a Select Committee.

PRESIDENT: That is for you to decide.

MR. PUTHUPALLI S. KRISHNA PILLAI: I may be permitted to think over the matter.

PRESIDENT: Then the best plan will be to refer the Bill to a Select Committee.

MR. PUTHUPALLI S. KRISHNA PILLAI: Yes, Sir. I beg to move that the Bill to amend the Revenue Summons Regulation be referred to a Select Committee consisting of Messrs. E. Subramonia Aiyar, M. L. D'Cruz, S. Chattanatha Karayalar, T. P. Velayudhan Pillai and myself.

PRESIDENT: What about Mr. K. P. Kochukora Tharakan?

MR. PUTHUPALLI S. KRISHNA PILLAI Yes. Mr. K. P. Kochukora Tharakan may also be included. The Select Committee shall submit their report before tomorrow noon.

MR. C. V. CHANDRASEKHARAN: I second it.

PRESIDENT: The question before the House is whether the Bill be referred to the Select Committee.

The motion was put to vote and carried.

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